

States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than \$5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of such order.

(f) Failure to pay penalties

If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court in which the person resides or conducts business. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this chapter shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 101-624, title XIX, §1999L, Nov. 28, 1990, 104 Stat. 3922; Pub. L. 102-237, title VIII, §809, Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-237 substituted “this section” for “this subsection” after “brought under”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6402, 6412 of this title.

§ 6412. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

- (1) for the effective administration of this chapter; or
- (2) to determine whether any person has engaged or is engaging in any act that constitutes a violation of this chapter, or any order, rule, or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

(1) In general

For the purpose of an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6410 or 6411 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 6410 or 6411 of this title shall be within the judicial district where such person resides or has a principal place of business.

(Pub. L. 101-624, title XIX, §1999M, Nov. 28, 1990, 104 Stat. 3924.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6402 of this title.

§ 6413. Requirement of initial referendum

(a) In general

Within the 60-day period immediately preceding the effective date of an order issued under section 6405(a) of this title, the Secretary shall conduct a referendum among fluid milk processors to ascertain whether the order shall go into effect.

(b) Implementation

If, as a result of the referendum conducted under subsection (a) of this section, the Secretary determines that implementation of the order is favored—

- (1) by at least 50 percent of fluid milk processors voting in the referendum; and
- (2) by fluid milk processors voting in the referendum that marketed during the representative period, as determined by the Secretary, 60 percent or more of the volume of fluid milk products marketed by all processors;

the order shall become effective as provided in section 6405(b) of this title.

(c) Costs of referendum

The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this chapter.

(d) Manner

(1) In general

Referenda conducted pursuant to this chapter shall be conducted in a manner determined by the Secretary.

(2) Advance registration

A fluid milk processor who chooses to vote in any referendum conducted under this chap-